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DEPARTMENT OF COMMERCE

International Trade Administration

[A-580-893]

Initiation and Preliminary Results of Changed Circumstances Review: Fine Denier Polyester Staple Fiber (PSF) from the Republic of Korea

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) is initiating a changed circumstances review (CCR) of the antidumping duty (AD) order on fine denier polyester staple fiber (PSF) from the Republic of Korea (Korea) and simultaneously issuing preliminary results finding Toray Advanced Materials Korea, Inc. (TAK) to be the successor-in-interest to Toray Chemical Korea, Inc. (TCK).

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Thomas Hanna, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC, 20230; telephone: (202) 482-0835.

SUPPLEMENTARY INFORMATION:

Background

On July 20, 2018, Commerce published the *AD Order* on PSF from the Republic of Korea in the *Federal Register*.¹ TCK was excluded from the *AD Order*.² On May 23, 2019,

¹ See *Fine Denier Polyester Staple Fiber from the People's Republic of China, India, the Republic of Korea, and Taiwan: Antidumping Duty Orders*, 83 FR 34545 (July 20, 2018) (*AD Order*).

² *Id.*

Commerce received a request on behalf of TAK for an expedited CCR to establish TAK as the successor-in-interest to TCK with respect to the *AD Order*.³ On June 17, 2019, Commerce informed TAK that it required additional information in order to determine whether to initiate the requested CCR.⁴ On June 21, 2019, TAK provided the requested information.⁵

Scope of the *AD Order*

The merchandise covered by the order is fine denier polyester staple fiber (fine denier PSF), not carded or combed, measuring less than 3.3 decitex (3 denier) in diameter. The scope covers all fine denier PSF, whether coated or uncoated. Fine denier PSF is classifiable under the HTSUS subheading 5503.20.0025. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the order is dispositive.⁶

Initiation

Pursuant to section 751(b)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.216(d), Commerce will conduct a CCR upon receipt of information or a review request showing changed circumstances sufficient to warrant a review of an order. Among other things, Commerce has conducted CCRs to consider the applicability of cash deposit rates after there have been changes in the name or structure of a company, such as a merger or spinoff (“successor-in-interest,” or “successorship,” determinations). However, pursuant to 19 CFR

³ See TAK’s Letter, “Changed Circumstances Review Request” (May 23, 2019) (CCR Request).

⁴ See Commerce’s Letter to TAK, dated June 17, 2019.

⁵ See TAK’s Letter, “Response Regarding Changed Circumstances Review Request” (June 21, 2019) (Response Regarding Changed Circumstances Review Request).

⁶ For a complete description of the scope of the *AD Order*, see Memorandum, “Initiation and Preliminary Results of Changed Circumstances Review: Fine Denier Polyester Staple Fiber (PSF) from the Republic of Korea,” dated concurrently, with and hereby adopted by, this notice (Preliminary Decision Memorandum). The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance’s Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). The signed and the electronic versions of the Preliminary Decision Memorandum are identical in content.

351.216(c), Commerce will not conduct a CCR in a proceeding within 24 months of publication of the notice of final determination in that proceeding without good cause.

The final determination that led to the *AD Order* was published on May 30, 2018.⁷ Thus, the CCR request under consideration was filed less than 24 months after the date of publication of the notice of final determination in the PSF investigation. However, pursuant to 19 CFR 351.216(c), we find that good cause exists to initiate this CCR on the grounds of fairness and ease of administration. Commerce has found good cause on the basis of fairness and ease of administration in other CCRs involving “successor-in-interest.”⁸

Moreover, we find the information provided is sufficient to warrant a CCR of the *AD Order*. Specifically, the information TAK provided regarding TCK’s merger into TAK and the fact that TCK was excluded from the *AD Order*, but TAK is subject to the all-others dumping rate, demonstrates changed circumstances sufficient to warrant a CCR with respect to the order.

Therefore, in accordance with section 751(b)(1) of the Act and 19 CFR 351.216(d), we are initiating a CCR to determine whether TAK is the successor-in-interest to TCK for purposes of the *AD Order*.

In addition, Commerce’s regulations at 19 CFR 351.221(c)(3)(ii) permit it to initiate a CCR and issue the preliminary results of that CCR simultaneously if it concludes that expedited action is warranted. We have on the record the information necessary to make a preliminary

⁷ See *Fine Denier Polyester Staple Fiber from the Republic of Korea: Final Affirmative Determination of Sales at Less Than Fair Value*, 83 FR 24743, 24744 (May 30, 2018), and accompanying Issues and Decision Memorandum.

⁸ See *Initiation and Preliminary Results of Changed Circumstances Reviews: Antidumping Duty Orders on Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People’s Republic of China and Antidumping Duty Order on Certain Crystalline Silicon Photovoltaic Products from the People’s Republic of China*, 82 FR 12558 (March 6, 2017), unchanged in *Antidumping Duty Orders on Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People’s Republic of China and Antidumping Duty Orders on Certain Crystalline Silicon Photovoltaic Products from the People’s Republic of China: Final Results of Changed Circumstances Reviews*, 82 FR 17797 (April 13, 2017).

finding and therefore we find that expedited action is warranted.⁹ Consequently, we are combining the initiation of the CCR described above and our preliminary results in accordance with 19 CFR 351.221(c)(3)(ii).

Preliminary Results

In determining whether one company is the successor to another for AD purposes, Commerce examines a number of factors including, but not limited to, changes in: (1) management, (2) production facilities, (3) suppliers, and (4) customer base.¹⁰ While no one, or several, of these factors will necessarily provide a dispositive indication of succession, Commerce will generally consider one company to be the successor to another company if its resulting operations are essentially the same as those of its predecessor.¹¹ Thus, if the evidence demonstrates that, with respect to the production and sale of the subject merchandise, the company, in its current form, operates as essentially the same business entity as the prior company, Commerce will assign the new company the cash deposit rate of its predecessor.¹²

TAK provided evidence¹³ that: 1) TCK merged into TAK in April 2019; 2) all of TCK's assets and liabilities were transferred to TAK, and TCK ceased to exist; and 3) there were no significant changes to management,¹⁴ production facilities,¹⁵ suppliers, or customer base.¹⁶

Based on the foregoing, which is explained in greater detail in the Preliminary Decision

⁹ See, e.g., *Notice of Initiation and Preliminary Results of Antidumping Duty Changed Circumstances Review: Certain Softwood Lumber Products from Canada*, 70 FR 50299, 50300 (August 26, 2005), unchanged in *Notice of Final Results of Antidumping Duty Changed Circumstances Review: Certain Softwood Lumber Products from Canada*, 70 FR 59721 (October 13, 2005).

¹⁰ See *Initiation and Preliminary Results of Antidumping Duty Changed Circumstances Review: Multilayered Wood Flooring from the People's Republic of China*, 79 FR 48117, 48118 (August 15, 2014), unchanged in *Multilayered Wood Flooring from the People's Republic of China: Final Results of Changed Circumstances Review*, 79 FR 58740 (September 30, 2014).

¹¹ *Id.*

¹² *Id.*; see also *Fresh and Chilled Atlantic Salmon from Norway: Final Results of Changed Circumstances Antidumping Administrative Review*, 64 FR 9979, 9980 (March 1, 1999).

¹³ See CCR Request.

¹⁴ *Id.*

¹⁵ See *id.* at 8 and Exhibit 9.

¹⁶ See *id.* at 8-9 and Exhibits 9 and 11.

Memorandum, we preliminarily determine that TAK is the successor-in-interest to TCK for purposes of the *AD Order*.

Should our final results of review remain the same as these preliminary results of review, effective the date of publication of the final results of review, we will instruct U.S. Customs and Border Protection to apply TCK's exclusion from the *AD Order* to TAK.

Public Comment

Interested parties may submit case briefs not later than 14 days after the date of publication of this notice.¹⁷ Rebuttal briefs, which must be limited to issues raised in case briefs, may be filed not later than seven days after the due date for case briefs.¹⁸ Parties who submit case briefs or rebuttal briefs in this CCR are requested to submit with each argument: (1) a statement of the issues; and (2) a brief summary of the arguments with electronic versions included.

Any interested party may request a hearing within 14 days of publication of this notice.¹⁹ Hearing requests should contain the following information: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations at the hearing will be limited to issues raised in the briefs. If a request for a hearing is made, parties will be notified of the time and date for the hearing to be held at the U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230 in a room to be determined.²⁰

¹⁷ Commerce is exercising its discretion under 19 CFR 351.309(c)(1)(ii) to alter the time limit for the filing of case briefs.

¹⁸ Commerce is exercising its discretion under 19 CFR 351.309(d)(1) to alter the time limit for the filing of rebuttal briefs.

¹⁹ Commerce is exercising its discretion under 19 CFR 351.310(c) to alter the time limit for requesting a hearing.

²⁰ See 19 CFR 351.310(d).

All submissions, with limited exceptions, must be filed electronically using ACCESS.²¹ An electronically filed document must be received successfully in its entirety by 5 p.m. Eastern Time (ET) on the due date. Documents excepted from the electronic submission requirements must be filed manually (*i.e.*, in paper form) with the APO/Dockets Unit in Room 18022 and stamped with the date and time of receipt by 5 p.m. ET on the due date.²²

Consistent with 19 CFR 351.216(e), we intend to issue the final results of this CCR no later than 270 days after the date on which this review was initiated or within 45 days if all parties agree to the outcome of the review.

Notification to Interested Parties

We are issuing and publishing this initiation and preliminary results notice in accordance with sections 751(b)(1) and 777(i)(1) of the Act and 19 CFR 351.216 and 351.221(c)(3).

Dated: August 18, 2019.

Jeffrey I. Kessler,
Assistant Secretary
for Enforcement and Compliance.

²¹ ACCESS is available to registered users at <https://access.trade.gov> and available to all parties in the Central Records Unit, room B8024 of the main Commerce building.

²² See *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011).

